

Assembly Bill No. 971

Passed the Assembly May 31, 2011

Chief Clerk of the Assembly

Passed the Senate August 22, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Article 5.6 (commencing with Section 18754) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 971, Monning. Personal income tax: voluntary contributions: California Sea Otter Fund.

The Personal Income Tax Law allows, for taxable years beginning on or after January 1, 2006, and before January 1, 2011, individual taxpayers to contribute amounts in excess of their tax liability for the support of the California Sea Otter Fund.

This bill would, for taxable years beginning on or after January 1, 2011, and before January 1, 2016, unless as otherwise provided, allow taxpayers to designate on their tax returns that a specified amount in excess of their tax liability be transferred to the California Sea Otter Fund, which would be created by this bill. This bill would require money in that fund, upon appropriation by the Legislature, be allocated to the Department of Fish and Game for the purposes of establishing a sea otter fund, as prescribed, and to the California Coastal Conservancy for competitive grants and contracts for research, projects, and programs related to the Federal Sea Otter Recovery Plan or improving the nearshore ocean ecosystem.

The bill would require the Franchise Tax Board to revise the 2011 form of tax returns to provide for the designation created by this bill, and would allow, upon appropriation by the Legislature, the Franchise Tax Board and the Controller to receive a portion of the funds designated to cover costs incurred in collecting and administering the funds.

This bill makes legislative findings and declarations as to the necessity of the California Sea Otter Fund.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Sea otters serve many important roles within the nearshore marine ecosystem, including as a sentinel of many forms of pollution and diseased organisms harmful to other animals and humans. Monitoring the health and population of sea otters is a useful tool for improving ocean health and for protecting domestic animal and human health and welfare. Continuance of these programs is highly encouraged.

(b) The sea otter population is threatened by a variety of stressors, including declines in habitat quality and increased exposure to various forms of pollution. Because of these stressors, the total number of sea otters in California is less than 3,000, and the surviving population continues to experience high mortality and periodic population declines.

(c) Efforts to benefit sea otters and their natural habitats in California should include:

(1) Investigating ecological and environmental factors that contribute to poor southern sea otter survival.

(2) Conducting in-depth studies of specific causes of sea otter mortality, the connections of those causes to environmental factors and anthropogenic activities, and the potential means for mitigating and preventing those causes.

(3) Characterizing the full range of pathogens and pollutants that cause illness and death in southern sea otters.

(4) Characterizing the source and population significance of harmful algal blooms and other water quality problems that can sicken or cause the death of sea otters, other marine wildlife, and humans.

(d) The California Sea Otter Fund provides crucial funding to help scientists examine and understand causes of sea otter mortality, identify key factors limiting population growth and recovery, and work cooperatively and collaboratively with stakeholders to help mitigate and prevent environmental degradation and pollution of the nearshore marine ecosystem. This fund is made possible through voluntary contributions by citizens of California and the fund should appear on the Franchise Tax Board's list of voluntary contribution funds. The past success of the California Sea Otter Fund, despite recent economic hardships experienced by California's citizens, reflects a strong collective interest in conserving this charismatic and important animal. There

are no other dedicated state funding sources available to continue this important work.

(e) California seeks to maximize and complement donated funds for sea otter protection by making competitive grants and soliciting available federal, private, matching, or other dollars to complement or leverage contributions.

SEC. 2. Article 5.6 (commencing with Section 18754) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 5.6. California Sea Otter Fund

18754. (a) An individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Sea Otter Fund, established by Section 18754.1. That designation is to be used as a voluntary checkoff on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation shall be made for any taxable year on the original return for that taxable year, and once made is irrevocable. If payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made. If no designee is specified, the contribution shall be transferred to the General Fund, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article.

(d) If an individual designates a contribution to more than one account or fund listed on the tax return, and the amount available for designation is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) Except as provided by Section 18754.3, for the 2011 taxable year, the Franchise Tax Board shall revise the form of the tax return to include a space labeled the "California Sea Otter Fund" to allow for the designation provided. The form shall include in the instruction information that the contribution may be in the amount of one dollar (\$1) or more and that the contribution shall be used to support increased investigation, prevention, and enforcement

actions to decrease sea otter mortality, and to provide for research and programs related to sea otters.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

18754.1. There is in the State Treasury the California Sea Otter Fund to receive contributions made pursuant to Section 18754. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money that taxpayers have designated pursuant to Section 18754 to be transferred to the California Sea Otter Fund. The Controller shall transfer from the Personal Income Tax Fund to the California Sea Otter Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18754 for payment into that fund.

18754.2. (a) All money transferred to the California Sea Otter Fund, upon appropriation by the Legislature, shall be allocated as follows:

(1) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(2) Fifty percent of the revenues remaining after allocation pursuant to paragraph (1), to the Department of Fish and Game for the purposes of establishing a sea otter fund to be used within the department's index coding system for increased investigation, prevention, and enforcement actions.

(3) Fifty percent of the revenues remaining after allocation pursuant to paragraph (1), to the California Coastal Conservancy for competitive grants and contracts to public agencies and nonprofit organizations for research, science, protection, projects, or programs related to the Federal Sea Otter Recovery Plan or improving the nearshore ocean ecosystem, including, but not limited to, program activities to reduce sea otter mortality. The projects or programs may also address pathogens and water and wastewater treatment technologies.

(b) The California Coastal Conservancy shall solicit available federal, private, matching, and other dollars to maximize or leverage funds appropriated pursuant to paragraph (3) to provide the greatest benefit for sea otters.

(c) The California Coastal Conservancy may enter into interagency agreements with public agencies for purposes of paragraph (3).

18754.3. (a) This article shall remain in effect only until January 1, 2016, and as of that date, is repealed.

(b) (1) By September 1 of each calendar year that the California Sea Otter Fund appears on a tax return, the Franchise Tax Board shall do both of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines the amount of contributions estimated to be received during a calendar year will not equal or exceed the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, “minimum contribution amount” for a calendar year means two hundred and sixty thousand eight hundred ninety dollars (\$260,890) for the 2011 calendar year, or the minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year after 2011 that the California Sea Otter Fund appears on the tax return, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum contribution amount for the calendar year shall be an amount equal to the product of the minimum contribution amount for the prior calendar year multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 3. It is the intent of the Legislature that Article 5.6 (commencing with Section 18754) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, as added by section 2 of this act, be considered to be and treated as a continuation of Article 5.5 (commencing with Section 18750) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, as added by Chapter 296 of the Statutes of 2006.

Approved _____, 2011

Governor